

## INTRODUCTION

On April 5, 2017, Chicago police officers arrested complainant Subject ("Subject"). Subject alleges she was thrown to the ground by her arresting officers causing an injury; that she was arrested without justification; and that she was verbally abused.

## ALLEGATIONS

It is alleged that on April 5, 2017, at approximately 8:45 p.m., in the vicinity of XXXX South Cottage Grove Ave, Officer A #XXXXX:

- 1) Threw Subject to the ground.
- 2) Arrested Subject without justification

It is alleged that on April 5, 2017, at approximately 8:45 p.m., in the vicinity of XXXX South Cottage Grove Ave, Officer B #XXXXX:

- 3) Threw Subject to the ground.
- 4) Arrested Subject without justification.

It is alleged that on April 5, 2017, at approximately 11:52 p.m., in the vicinity of XXXX South Halsted St, Officer B #XXXX:

- 5) Shouted continuously at Subject to, "shut the fuck up!"

## APPLICABLE LAW AND RULES

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 8: Prohibits disrespect to or maltreatment of any person, while on or off duty.

**Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.**

## INVESTIGATION

COPA obtained relevant documentary and video evidence associated with this incident, in addition to interviewing Subject, and Officers Officer C, Officer D, Officer A and Officer B. A summary of this evidence follows.

In a **Recorded Statement** to COPA on May 10, 2017, complainant, Subject stated that she received a call from her sister, Civilian 1 ("Civilian 1"), who was involved in a domestic altercation with her child's father ("Civilian 2") and his current girlfriend (not identified). Civilian 1 requested to be picked up at a gas station (later identified as Gas Station) located at XXXX S. Cottage Grove Ave. Subject stated that several police officers and a crowd of approximately ten to fifteen people were at the gas station when she arrived and she attempted to speak with her sister. Subject stated that she told the officer she was looking for her sister. Subject stated that a uniformed police officer (later identified as Officer

E) told her to get back into her car or to leave. Subject stated that she told the officer she did not do anything wrong and took out her phone to call a Sergeant. Subject stated that she called 911 as she walked towards her car to inquire as to how a Sergeant would address the situation. Subject stated that as she got into her car the officer told her she was under arrest and then ordered her to get out of the car. Subject stated that she held onto the steering wheel to stop him from pulling her out. Subject stated that the officer reached inside her car to grab her phone and pulled her from inside with the assistance of five other officers who then slammed her to the ground which "busted her lip." Subject stated she was transported to a police station by two officers (later identified as Beat XXX: Officers C and D). Subject admitted that during the arrest, she was being rude and was using profanity. Subject stated the arresting officers (later identified as Officer E and B) arrived at the station approximately fifteen minutes later. Subject stated one of the officers recorded her with his personal cell phone and that she complained to a Sergeant to no avail. (Att. 8)

The **Recorded Statement of Officer C** was taken at COPA on August 10, 2017 in the presence of counsel. Officer C stated he was working with a partner the night of the incident but does not recall his name. Officer C stated that he was assigned a disturbance call on Maryland Ave. and upon arrival he did not see anyone. Officer C stated that he radioed to dispatch for an update to the call. Officer C stated that he responded to the Gas Station at XXXX S. Cottage Grove Ave and saw a commotion. Officer C stated that he saw other officers there as well. Officer C stated that he had no prior contact with the arrestee (Subject) and was asked by the arresting officers to transport her to the station. Officer C stated that he did not see the arresting officers throw her to the ground. Officer C stated that he did not recall any conversation with Subject during the transport, and that she did not have any visible injuries. Officer C stated that he does not recall the interaction with Subject and the arresting officers at the police station. (Att. 47)

The **Recorded Statement of Officer D** was taken at COPA on August 14, 2017 in the presence of counsel. Officer D stated that he was assigned to Beat XXX, and working with FTO C on the night of the incident. Officer D stated that he was assigned to a domestic disturbance call on a nearby street. Officer D stated that he was told by an occupant of the building that the female battery victim and male offender fled to a gas station down the street. Officer D stated he had no prior contact with Subject. Officer D stated that they toured the area for the parties and drove past the gas station. Officer D stated that they encountered a marked police vehicle and witnessed two police officers talking to a male and a pregnant female. Officer D stated he does not know the arresting officers. Officer D stated that he was on the side of the building and did not see the officers throw Subject to the ground, nor did he see when Subject was arrested, due to his position in the parking lot. Officer D stated that Officer C spoke to Subject and attempted to calm her down. Officer D stated that Subject was irate and did not know why she was arrested. Officer D stated that Subject made no statements and that he did not see any injuries during the transport. Officer D stated that they did not remain in the station after the arresting officers arrived and did not see any interaction between the arresting officers and Subject (Att.48)

The **Recorded Statement of Accused Officer A** was taken at COPA on September 11, 2017 in the presence of counsel. Officer E stated that he was working with Officer B at the time of this event. Officer E stated that he observed a vehicle in the gas station lot with a broken window, and a male and female standing nearby (Civilian 2 and Civilian 1). Officer E stated that the

female (Civilian 1) appeared to be in distress and Officer E stopped to investigate. Officer E stated that (Civilian 2) approached and explained that the vehicle belonged to his friend (Civilian 4'), who was on the way to the gas station. Officer E stated that Civilian 4 arrived at which time he discovered that the three individuals were involved in a domestic altercation and that Civilian 1 had broken Civilian 4's car window.

Officer E stated that around this time a red vehicle entered the gas station lot at a high rate of speed. Officer E stated that Subject exited the vehicle and walked towards him and Civilian 4. Officer E stated that Subject did not identify herself at the time. Officer E stated he ordered Subject to step back from him and Civilian 4, to which she responded, "that's my sister" in reference to the other female that was present, and continued to advance. Officer E stated that he continued to order Subject to step back, which she refused to do, prompting her arrest. Officer E stated that Subject was arrested due to her interference with his investigation. Officer E stated that Subject was not compliant during her arrest, but that he used only minimal force to detain her, and that he did not slam her to the ground. Officer E stated that Subject resisted arrest by flailing her arms, dropping her weight, and was making derogatory statements. Officer E stated Beat XXX arrived at some point during the incident and transported Subject to the station. Officer E stated that he and Officer B completed the paperwork once at the station. Officer E stated that he did not observe Officer B use profanity at Subject or use his personal cell phone to record her. Officer E stated that Subject was then transported to the XXX District female lockup for processing. (Att. 62)

The **Recorded Statement of Accused Officer B** was taken at COPA on September 11, 2017 in the presence of counsel. Officer B stated that he and Officer E were responding to a domestic disturbance in the gas station lot. Officer B stated that Subject drove into the gas station with her vehicle at a high rate of speed causing the officers and other parties to move out of the way. Officer B stated that Subject approached Officer E and Civilian 4 in an aggressive manner. Officer B stated that Subject was screaming at them and refused multiple orders to step back. Officer B stated that Subject was arrested for obstruction, and that she resisted by going "dead weight." Officer B stated that her arms were placed behind her back and she was handcuffed. Officer B stated he does not recall the identities of the other officers who were present. Officer B stated that Subject continued to be aggressive and verbally abusive in the station. Officer B stated Subject was transported to the XXX<sup>h</sup> District female lockup for processing. Officer B stated that he did not throw Subject to the ground. Officer B stated that he does not recall using the specific language from Subject's allegation. (Att. 63)

**Attendance and Assignment Records** for the XXXth District, dated April 5, 2017, exhibit Officer C star XXXX, and Officer D star XXXX, were assigned to Beat XXX which was the listed transporting vehicle. (Att. 14)

**Attendance and Assignment Records** for VRI South, dated April 5, 2017, exhibit Officer F star XXXXX, and Officer G star XXXXX, were assigned to Beat XXXX which responded to several calls at the location of the incident. (Att. 46)

<sup>1</sup> Civilian 4 is the name listed on the 911 call regarding a domestic disturbance in which her car window was broken. See attachment 31.

<sup>2</sup> "Dead weight" is a colloquialism describing the dropping of one's weight to the ground to resist arrest.

Subject's Arrest Report, **CB# XXXXXX**, states that she was charged with Resisting/Obstructing a peace officer (720 ILCS 5/31-1-A). According to the Incident Narrative, the officers state that Subject entered the gas station with her vehicle at a high rate of speed. Subject then failed to follow orders to step back from officers and a female subject, which interfered with their investigation. The arresting officers are documented as Officer E #XXXXXX and B #XXXX under Beat XXXX (Att. 15)

A full-page mugshot **Photograph** was obtained under CB# XXX exhibiting a large image of Subject's face to which there are no signs of injury. (Att. 16)

**Case Incident Reports** recorded under RD# XXXXXX contain a similar narrative as in the arrest report. (Atts. 17, 18, 19)

A **Body-worn camera video** dated April 5, 2017, 8:16 p.m., depicts Officers C and D responding to an unrelated call for a burglar alarm. (Att. 22)

A **Body-worn camera video** dated April 5, 2017, 8:35 p.m., depicts Officers C and D responding to XXXX S Maryland who were unable to contact the involved parties. (Att. 23)

A **Body-worn camera video** dated April 5, 2017, 8:35 p.m., depicts corresponding in-car camera from Beat XXX of Officers C and D responding to XXXX S Maryland. (Att. 24)

An **In-car camera video** dated April 5, 2017, 8:52 p.m., depicts the rear-facing camera inside Beat XXX. The video shows Subject in the back seat, handcuffed from behind, and depicts a view of her face to which there are no signs of injury. (Att. 25)

An **In-car camera video** dated April 5, 2017, 8:52 p.m., depicts corresponding dash-camera video of Beat XXX transporting Subject to the station. (Att. 26)

An **OEMC Event Query** dated April 5, 2017, 8:21 p.m., reflects a call to 911 reporting a battery in-progress at XXXX S Cottage Grove Ave to which Beat XXXX was assigned. (Att. 27)

An **OEMC Event Query** dated April 5, 2017, 8:24 p.m., reflects a call to 911 reporting a battery in-progress at XX/Cottage Grove which was made a duplicate of XXXX's assignment. Caller identified as Civilian 5 through a telephone contact made by COPA on July 13, 2017. (Att. 28)

An **OEMC Event Query** dated April 5, 2017, 8:32 p.m., reflects a call to 911 reporting a battery in-progress at XXXX S Maryland Ave to which Beat XXXX was assigned. (Att. 29)

An **OEMC Event Query** dated April 5, 2017, 8:32 p.m., reflects a call to 911 reporting a domestic battery at XXXX S Maryland Ave which was made a duplicate to XXX's assignment. (Att. 30)

An **OEMC Event Query** dated April 5, 2017, 8:33 p.m., reflects a call to 911 reporting a domestic disturbance at XX/Cottage Grove in the Gas Station which was made a duplicate of XXX's assignment. The caller's name listed in the event is "Civilian 4". The female caller is the victim of the damaged vehicle mentioned in Officer E's statement. (Att. 31)

An **OEMC Event Query** dated April 5, 2017, 8:46 p.m., reflects a call to 911 in which a female caller (identified as Subject from the phone number) requests help at XXXX S Cottage Grove which was made a duplicate of XXX's assignment. (Att. 32)

An **OEMC Event Query** dated April 5, 2017, 8:51 p.m., reflects a street-stop event created for Beat XXXX and shows Beat XXX assisting for transport. (Att. 33)

In **Telephone Contact** made on July 12, 2017 at approximately 1:20 p.m., Subject elaborated on the alleged injury stating that she received a cut to the inside of her mouth on the top right side. Subject also related she had braces, was not bleeding at the time of the incident, and did not take pictures of her mouth. Subject stated that her sister's boyfriend Civilian 2, along with his cousin (not identified), were present during the incident. Subsequently, COPA attempted to make **contact via telephone** with the complainant's sister, Civilian 1, on July 12, 2017, and July 13, 2017. COPA was not contacted by the witness during the entirety of this investigation. (Atts. 37, 64)

In **Telephone Contact** made on July 13, 2017 at approximately 1:35 p.m., COPA called the number shown in Event Query #1709513601 and spoke with Civilian 5 regarding her call to 911 on April 5, 2017 at 8:22 p.m. Civilian 5 stated that she witnessed four males fighting with two females behind the Gas Station, located at XXrd and Cottage Grove, and called 911 as she was driving past. Civilian 5 stated that she did not see the police at that time. (Att. 38)

A **Canvass** was conducted on July 19, 2017 at XXXX S Cottage Grove Ave and surrounding areas. COPA investigators entered the Gas Station store and spoke with Civilian 3 who is the manager. Civilian 3 stated that the surveillance camera system has a five-day retention period and showed COPA investigators the monitor which displays the camera angles. COPA investigators inspected the garage of XXXX S. Maryland Ave and observed mounted surveillance cameras which face the gas station lot. COPA investigators attempted to contact with occupants of the house to which there was no response. COPA investigators visited the adjacent Restaurant where cameras were observed on the exterior of the building. COPA investigators spoke with a female employee who stated any video for the date of incident is past retention. COPA investigators left business cards for the owner; COPA was not contacted for the entirety of the investigation. (Att. 39)

A **Letter to Complainant** dated July 25, 2017 was sent to Subject asking for cooperation from Civilian 1. COPA did not receive a response from the complainant or witness during entirety of this **investigation. This letter was returned to COPA which was labeled Return to Sender — Unable to Forward** (Atts. 40, 51)

An **OEMC Transmission** of the 911 call from Subject was obtained where she can be heard saying, "don't touch me, get on, move!" and then asking for a supervisor. (Att. 45)

On August 17, 2017, at approximately 10:25 a.m., COPA contacted CPD via **Telephone** to schedule Witness Officer F for an interview. COPA spoke with Sergeant #XXXX who stated that Officer F was on medical leave indefinitely due to shoulder surgery.

In **Telephone Contact** made on August 23, 2017, at approximately 11:20 a.m., Officer G stated that he and Officer F were assigned to Beat XXXX and responded to a battery in progress call at XXXX S Cottage Grove Ave. Officer G stated that when they arrived at the gas station no one was

found and they did not encounter XXXX. Officer G stated that they left the area shortly thereafter. (Atts. 52, 64)

An **Email** was sent to the Bureau of Internal Affairs ("BIA") requesting any related video from the XXth District Station to which there was no video found. (Atts. 55,65)

## CONCLUSION AND FINDING

### Accused: Officer A #XXXXXX, Officer B #XXXX

COPA's burden of proof relies on the preponderance of evidence standard. COPA recommends a finding of **NOT SUSTAINED** for **Allegations #1 and #3**, that the officers threw Subject to the ground, which resulted in an injury to her lip. There is not enough evidence to prove or disprove the claim of excessive force or injury.

According to Subject's statements, she claims she was thrown to the ground onto her face during her arrest and sustained an injury to the inside of her lip. Both Officer E and Officer B assert that Subject resisted during her arrest. This included screaming, flailing her arms and dropping her weight to the ground which is corroborated by Subject's call to 911. The 911 audio captures her screaming at the officers, "don't touch me, get on, move." Both Officer E and Officer B stated that the minimal level of force was used to handcuff her. Officer C and Officer D stated that Subject made no mention of the injury and made no requests for medical attention. There is no indication on Subject's arrest report that injuries were observed or reported to lockup personnel. There is no record of transport to a hospital. In the telephone conversation with COPA, Subject stated she did not seek treatment for the alleged injury after her release from the station. Subject failed to provide pictures or video of the alleged injuries. COPA was unable to reach Civilian 1 or Civilian 2, to provide a statement which corroborates Subject's claims.

Irrespective of the above, Subject asserts that the acts occurred as alleged. There is insufficient evidence to prove or disprove the allegations and therefore the COPA recommends a finding of Not Sustained.

COPA recommends a finding of **EXONERATED** for **Allegations #2 and #4** that the officers detained Subject without justification. Based on the preponderance of evidence, the officers were legally justified in placing Subject into custody. According to Illinois statute 720 ILCS 5/31-1, (from Ch. 38, par. 31-1);

*Sec. 31-1. Resisting or obstructing a peace officer, firefighter, or correctional institution employee.*

*(a) A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer, firefighter, or correctional institution employee of any authorized act within his or her official capacity commits a Class A misdemeanor.*

According to statements from Officer E and Officer B, the officers were in uniform, which identified them as police officers, and were driving a marked Chicago Police Department vehicle. Given the dress of the officers and the situation, a reasonable person would have known that Officer E and Officer B were police officers at the time. Both Officer E and Officer B assert that Subject's aggressive movements towards themselves and the victim, and her failure to follow lawful orders,

interfered with their ongoing investigation into the domestic violence complaint. According to Subject's statement, she stated that she did not leave when instructed by Officer E, and instead called for a Sergeant. Given the circumstances, and what the officers knew at the time, Subject's detainment did not violate department policy or the law. Additionally, her behavior supplied the officers with sufficient probable cause to place her in custody.

**Accused: Officer B #XXXX**

COPA recommends a finding of **NOT SUSTAINED** for **Allegation #5** that the officer shouted at the complainant to, "shut the fuck up." There is no evidence to prove or disprove the claim of verbal abuse committed by the officer. Subject claims that the officer yelled at her and used profanity, however COPA was unable to ascertain any additional witnesses to the alleged misconduct. There were negative results to the XXth District station video camera inquiry. Both Officer E and Officer B deny that this occurred.

COPA Investigator

COPA Supervising. Investigator

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COPA Deputy Chief

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